

# SENATE BILL No. 343

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-5.3; IC 33-39-2-2; IC 34-24; IC 35-31.5-2; IC 35-38-9; IC 35-43-4-2.2; IC 35-44.1-3-4; IC 35-45-6-1; IC 35-47-2-7.

**Synopsis:** Various criminal law matters. Requires online marketplaces to collect and verify certain information about high volume, third party sellers in the marketplaces and provide that information to consumers in the marketplaces. Makes it organized retail theft, a Level 6 felony, for a person to knowingly: (1) take, procure, receive, conceal, or otherwise exercise control over merchandise of a retail merchant; or (2) use an artifice, an instrument, a container, a device, or another article to facilitate taking, procuring, receiving, concealing, or exercising control over merchandise of a retail merchant; without the consent of the retail merchant or without paying the appropriate consideration for the merchandise, and with the intent to sell, deliver, or distribute the merchandise to another person, and increases the penalty under certain circumstances. Provides that the violation of a community corrections home detention placement term constitutes the crime of escape under certain circumstances. Permits a person to petition for expungement of an arrest if no charges have been filed within one year of the arrest. (Under current law, the arrest is expunged without a petition after 180 days.) Allows disclosure of expunged records to a school in connection with the employment of a person likely to have contact with a student. Repeals the requirement that certain acts taken by a prosecuting attorney are invalid without a seal. Revises, for purposes of an enhancement and certain criminal offenses, a definition of "machine gun" to include a particular part or combination of parts designed and intended for use in converting a weapon into a weapon that fires automatically more than one shot, without manual reloading, by a single function of the trigger. Modifies a separate definition of "machine gun".

**Effective:** July 1, 2023.

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## Freeman

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January 19, 2023, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 123rd General Assembly (2023)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

## SENATE BILL No. 343

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 24-5.3 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2023]:

4 **ARTICLE 5.3. CONSUMERS IN ONLINE RETAIL**  
5 **MARKETS**

6 **Chapter 1. General Provisions**

7 **Sec. 1. This article does not create a private right of action**  
8 **against a high volume third party seller, online marketplace seller,**  
9 **or third party seller based upon compliance or noncompliance with**  
10 **this article.**

11 **Sec. 2. To the extent that a substantially similar federal law or**  
12 **regulation conflicts with this article, the federal law or regulation**  
13 **controls.**

14 **Chapter 2. Definitions**

15 **Sec. 1. The definitions in this chapter apply throughout this**  
16 **article.**

17 **Sec. 2. (a) "Consumer product" means tangible personal**



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property that is:

- (1) distributed in commerce; and
- (2) normally used for personal, family, or household purposes.

(b) The term includes property intended to be attached to or installed on any real property without regard to whether the property is so attached or installed.

Sec. 3. (a) "High volume third party seller" refers to a person that:

- (1) is a third party seller;
- (2) participates in an online marketplace;
- (3) in any continuous twelve (12) month period during the previous twenty-four (24) months, has entered into two hundred (200) or more discrete sales or transactions of new or unused consumer products; and
- (4) has an aggregate total of five thousand dollars (\$5,000) or more in gross revenue.

(b) For purposes of calculating the number of discrete sales or transactions, or the aggregate gross revenues under IC 24-5.3-3-5, only sales or transactions:

- (1) made through the online marketplace; and
- (2) for which payment was processed by the online marketplace, either directly or through its payment processor;

are considered.

Sec. 4. "Online marketplace" means a person that:

- (1) operates a consumer directed electronically based or accessed platform that includes features that allow for, facilitate, or enable online third party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of consumer products in Indiana;
- (2) is used by one (1) or more online third party sellers for such purposes; and
- (3) has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

Sec. 5. "Seller" means a person that sells, offers to sell, or contracts to sell consumer products through an online marketplace's platform.

Sec. 6. (a) "Third party seller" refers to a seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in Indiana through an online marketplace.

(b) The term does not include, with respect to an online



1 marketplace, any of the following:

- 2 (1) A seller that operates the online marketplace's platform.  
 3 (2) A person that has:  
 4 (A) made available to the public the person's name,  
 5 business address, and working contact information;  
 6 (B) an ongoing contractual relationship with the online  
 7 marketplace to provide the online marketplace with the  
 8 manufacture, distribution, wholesaling, or fulfillment of  
 9 shipments of consumer products; and  
 10 (C) provided to the online marketplace identifying  
 11 information, as described in IC 24-5.3-3-1, that has been  
 12 verified in accordance with IC 24-5.3-3.

13 Sec. 7. (a) "Verify" means to confirm information provided to  
 14 an online marketplace.

15 (b) The term includes the use of one (1) or more methods that  
 16 enable the online marketplace to reliably determine that  
 17 information and documents provided are:

- 18 (1) valid, corresponding to the seller or an individual acting  
 19 on the seller's behalf; and  
 20 (2) not misappropriated or falsified.

21 Chapter 3. Online Marketplace Verification

22 Sec. 1. An online marketplace shall require that a high volume  
 23 third party seller on the online marketplace's platform provide the  
 24 online marketplace with the following information, not later than  
 25 ten (10) days after qualifying as a high volume third party seller on  
 26 the platform:

- 27 (1) A bank account number, or, if the high volume third party  
 28 seller does not have a bank account, the name of the payee for  
 29 payments issued by the online marketplace to the high volume  
 30 third party seller. The seller may provide the required bank  
 31 account or payee information to the online marketplace or  
 32 other third parties contracted by the online marketplace to  
 33 maintain the information, if the online marketplace ensures  
 34 that it can obtain the information on demand from the other  
 35 third parties.  
 36 (2) The contact information for the high volume third party  
 37 seller. If the high volume third party seller is an individual,  
 38 the individual's name must be provided. If the high volume  
 39 third party seller is not an individual, either of the following  
 40 must be provided:  
 41 (A) A copy of a valid government issued identification for  
 42 an individual acting on behalf of the seller that includes the



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individual's name.

(B) A copy of a valid government issued record or tax document that includes the business name and physical address of the seller.

(3) A business tax identification number or, if the high volume third party seller does not have a business tax identification number, a taxpayer identification number.

(4) A current working electronic mail address and telephone number for the high volume third party seller.

Sec. 2. An online marketplace shall periodically, but not less than annually, notify each high volume third party seller on the online marketplace's platform of the requirement to keep information collected under section 1 of this chapter current and require the high volume third party seller to, not later than ten (10) days after receiving the notice, electronically certify one (1) of the following:

(1) The high volume third party seller has provided any changes to the information to the online marketplace, if changes have occurred.

(2) There have been no changes to the high volume third party seller's information.

Sec. 3. If a high volume third party seller does not provide the information or certification required under this chapter, the online marketplace, after providing the seller with:

- (1) written or electronic notice; and
- (2) an opportunity to provide the information or certification not later than ten (10) days after the notice is given;

shall suspend any future sales activity of the seller until the seller provides the information or certification.

Sec. 4. An online marketplace shall:

- (1) verify the information received under section 1 of this chapter not later than ten (10) days after the information is received; and
- (2) verify any change to the information not later than ten (10) days after being notified of the change by a high volume third party seller under section 2 of this chapter.

If a high volume third party seller provides a copy of a valid government issued tax document, any information contained in the document shall be presumed to be verified as of the date of issuance of the document.

Sec. 5. An online marketplace shall require a high volume third party seller with an aggregate total of twenty thousand dollars



1 (\$20,000) or more in annual gross revenues on the online  
 2 marketplace to provide information to the online marketplace that  
 3 includes the identity of the high volume third party seller,  
 4 including all of the following:

5 (1) The full name of the seller or seller's company name, or  
 6 the name by which the seller or company operates on the  
 7 online marketplace.

8 (2) The physical address of the seller.

9 (3) The following information for the seller:

10 (A) A current working telephone number.

11 (B) A current working electronic mail address or other  
 12 means of direct electronic messaging that the online  
 13 marketplace can provide to users of the online marketplace  
 14 that provides a user with direct, unhindered  
 15 communication with high volume third party sellers.

16 (4) Whether the high volume third party seller used a  
 17 different seller to supply consumer products to consumers  
 18 upon purchase, and, upon the request of a consumer, the  
 19 information described in subdivision (1) relating to any such  
 20 seller that supplied the consumer product to the consumer, if  
 21 the seller is different from the high volume third party seller  
 22 listed on the product listing prior to purchase.

23 **Sec. 6. An online marketplace shall provide each consumer the**  
 24 **information described in section 5 of this chapter in a conspicuous**  
 25 **manner in the:**

26 (1) order confirmation message or other document or  
 27 communication given to the consumer after a purchase is  
 28 finalized; and

29 (2) consumer's account transaction history.

30 **Sec. 7. Upon the request of a high volume third party seller, an**  
 31 **online marketplace may provide for partial disclosure of the**  
 32 **identity information required under section 5 of this chapter as**  
 33 **follows:**

34 (1) If the high volume third party seller certifies to the online  
 35 marketplace that the seller does not have a business address  
 36 and only has a residential street address, or has a combined  
 37 business and residential street address, the online marketplace  
 38 may:

39 (A) disclose only the country and, if applicable, the state in  
 40 which the high volume third party seller resides; and

41 (B) inform consumers that there is no business address  
 42 available for the seller and that consumer inquiries should



- 1           be submitted to the seller by telephone, electronic mail, or  
 2           other means of electronic messaging provided to the seller  
 3           by the online marketplace.
- 4           **(2) If the high volume third party seller certifies to the online**  
 5           **marketplace that the seller is a business that has a physical**  
 6           **address for product returns, the online marketplace may**  
 7           **disclose the seller's physical address for product returns.**
- 8           **(3) If a high volume third party seller certifies to the online**  
 9           **marketplace that the seller does not have a telephone number**  
 10           **other than a personal telephone number, the online**  
 11           **marketplace shall inform consumers that there is no telephone**  
 12           **number available for the seller and that consumer inquiries**  
 13           **should be submitted to the seller's electronic mail address or**  
 14           **other means of electronic messaging provided by the seller to**  
 15           **the online marketplace.**
- 16           **Sec. 8. If an online marketplace becomes aware that a high**  
 17           **volume third party seller:**
- 18           **(1) has made a false representation to the online marketplace**  
 19           **in order to justify the provision of a partial disclosure under**  
 20           **section 7 of this chapter; or**
- 21           **(2) who has requested and received a provision for a partial**  
 22           **disclosure under section 7 of this chapter has not provided**  
 23           **responsive answers within a reasonable time to consumer**  
 24           **inquiries submitted to the seller by telephone, electronic mail,**  
 25           **or other means of electronic messaging provided by the seller**  
 26           **to the online marketplace;**
- 27           **the online marketplace shall, after providing the seller with written**  
 28           **or electronic notice and an opportunity to respond not later than**  
 29           **ten (10) days after the issuance of the notice, suspend any future**  
 30           **sales activity of the seller unless the seller consents to the disclosure**  
 31           **of the identity information required under section 5 of this chapter.**
- 32           **Sec. 9. If a high volume third party seller does not comply with**  
 33           **the requirements to provide and disclose information under this**  
 34           **chapter, the online marketplace, after providing the seller:**
- 35           **(1) with written or electronic notice; and**
- 36           **(2) an opportunity to provide or disclose the information not**  
 37           **later than ten (10) days after the issuance of the notice;**
- 38           **shall suspend all future sales activity of the seller until the seller**  
 39           **complies with the requirements.**
- 40           **Sec. 10. An online marketplace shall disclose to consumers in a**  
 41           **clear and conspicuous manner on the product listing of any high**  
 42           **volume third party seller a reporting mechanism that allows for**



1 electronic and telephonic reporting of suspicious marketplace  
2 activity to the online marketplace.

3 **Sec. 11. (a) Information collected solely to comply with the**  
4 **requirements of this chapter may not be used for any other**  
5 **purpose unless required by law.**

6 **(b) An online marketplace shall implement and maintain**  
7 **reasonable security procedures and practices, including**  
8 **administrative, physical, and technical safeguards, appropriate to**  
9 **the nature of the data and the purposes for which the data will be**  
10 **used, to protect the data collected under this chapter from**  
11 **unauthorized use, disclosure, access, destruction, or modification.**

12 **Sec. 12. (a) If the attorney general has reason to believe that a**  
13 **person has violated this article, the attorney general may bring an**  
14 **action against the person to restrain by preliminary or permanent**  
15 **injunction the use of the method, act, or practice.**

16 **(b) The court, in its discretion, may do any of the following:**

17 **(1) Issue an injunction.**

18 **(2) Appoint a receiver.**

19 **(3) Order any of the following:**

20 **(A) The revocation, forfeiture, or suspension of a license,**  
21 **charter, franchise, certificate, or other evidence of**  
22 **authority of any person to do business in Indiana.**

23 **(B) The dissolution of a domestic corporation or**  
24 **association.**

25 **(C) The suspension or termination of the right of a foreign**  
26 **corporation or association to do business in Indiana.**

27 **(D) Restitution.**

28 **(4) Exercise any other power the court has to do justice in the**  
29 **circumstances.**

30 **Sec. 13. Notwithstanding anything to the contrary in this**  
31 **chapter, the attorney general may:**

32 **(1) request, by subpoena or otherwise; and**

33 **(2) use;**

34 **any information collected to comply with the requirements of this**  
35 **chapter to enforce the provisions of this article as described in**  
36 **section 12 of this chapter.**

37 **Sec. 14. (a) In the administration of this chapter, the attorney**  
38 **general may accept an assurance of voluntary compliance with**  
39 **respect to any method, act, or practice the attorney general**  
40 **considers to violate this article from any person who has engaged**  
41 **in, is engaging in, or is about to engage in such a method, act, or**  
42 **practice.**





1           **(b) Evidence of a violation of an assurance of voluntary**  
 2 **compliance is prima facie evidence of a violation of this article in**  
 3 **any subsequent proceeding brought by the attorney general against**  
 4 **the alleged violator.**

5           **(c) The attorney general may issue subpoenas to, or examine**  
 6 **under oath, any person alleged to have participated in or to have**  
 7 **knowledge of the alleged method, act, or practice that violates this**  
 8 **article.**

9           SECTION 2. IC 33-39-2-2 IS REPEALED [EFFECTIVE JULY 1,  
 10 2023]. Sec. 2: A prosecuting attorney or deputy prosecuting attorney  
 11 may not perform a duty set forth in section 1 of this chapter until the  
 12 prosecuting attorney or deputy prosecuting attorney obtains a seal that  
 13 stamps upon paper a distinct impression:

- 14           (1) in words or letters sufficiently indicating the official character  
 15 of the prosecuting attorney or deputy prosecuting attorney; and  
 16 (2) that may include any other device chosen by the prosecuting  
 17 attorney or deputy prosecuting attorney.

18 All acts not attested by a seal are void.

19           SECTION 3. IC 34-24-1-1, AS AMENDED BY P.L.174-2021,  
 20 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2023]: Sec. 1. (a) The following may be seized:

22           (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used  
 23 or are intended for use by the person or persons in possession of  
 24 them to transport or in any manner to facilitate the transportation  
 25 of the following:

26           (A) A controlled substance for the purpose of committing,  
 27 attempting to commit, or conspiring to commit any of the  
 28 following:

- 29           (i) Dealing in or manufacturing cocaine or a narcotic drug  
 30 (IC 35-48-4-1).  
 31           (ii) Dealing in methamphetamine (IC 35-48-4-1.1).  
 32           (iii) Manufacturing methamphetamine (IC 35-48-4-1.2).  
 33           (iv) Dealing in a schedule I, II, or III controlled substance  
 34 (IC 35-48-4-2).  
 35           (v) Dealing in a schedule IV controlled substance (IC  
 36 35-48-4-3).  
 37           (vi) Dealing in a schedule V controlled substance (IC  
 38 35-48-4-4).  
 39           (vii) Dealing in a counterfeit substance (IC 35-48-4-5).  
 40           (viii) Possession of cocaine or a narcotic drug (IC  
 41 35-48-4-6).  
 42           (ix) Possession of methamphetamine (IC 35-48-4-6.1).



- 1 (x) Dealing in paraphernalia (IC 35-48-4-8.5).  
 2 (xi) Dealing in marijuana, hash oil, hashish, or salvia (IC  
 3 35-48-4-10).  
 4 (xii) An offense under IC 35-48-4 involving a synthetic drug  
 5 (as defined in IC 35-31.5-2-321), a synthetic drug lookalike  
 6 substance (as defined in IC 35-31.5-2-321.5 (before its  
 7 repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its  
 8 repeal on July 1, 2019), a controlled substance analog (as  
 9 defined in IC 35-48-1-9.3), or a substance represented to be  
 10 a controlled substance (as described in IC 35-48-4-4.6).  
 11 (B) Any stolen (IC 35-43-4-2 **or IC 35-43-4-2.2**) or converted  
 12 property (IC 35-43-4-3) if the retail or repurchase value of that  
 13 property is one hundred dollars (\$100) or more.  
 14 (C) Any hazardous waste in violation of IC 13-30-10-1.5.  
 15 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of  
 16 mass destruction (as defined in IC 35-31.5-2-354) used to  
 17 commit, used in an attempt to commit, or used in a conspiracy  
 18 to commit a felony terrorist offense (as defined in  
 19 IC 35-50-2-18) or an offense under IC 35-47 as part of or in  
 20 furtherance of an act of terrorism (as defined by  
 21 IC 35-31.5-2-329).  
 22 (2) All money, negotiable instruments, securities, weapons,  
 23 communications devices, or any property used to commit, used in  
 24 an attempt to commit, or used in a conspiracy to commit a felony  
 25 terrorist offense (as defined in IC 35-50-2-18) or an offense under  
 26 IC 35-47 as part of or in furtherance of an act of terrorism or  
 27 commonly used as consideration for a violation of IC 35-48-4  
 28 (other than items subject to forfeiture under IC 16-42-20-5 or  
 29 IC 16-6-8.5-5.1, before its repeal):  
 30 (A) furnished or intended to be furnished by any person in  
 31 exchange for an act that is in violation of a criminal statute;  
 32 (B) used to facilitate any violation of a criminal statute; or  
 33 (C) traceable as proceeds of the violation of a criminal statute.  
 34 (3) Any portion of real or personal property purchased with  
 35 money that is traceable as a proceed of a violation of a criminal  
 36 statute.  
 37 (4) A vehicle that is used by a person to:  
 38 (A) commit, attempt to commit, or conspire to commit;  
 39 (B) facilitate the commission of; or  
 40 (C) escape from the commission of;  
 41 murder (IC 35-42-1-1), dealing in a controlled substance resulting  
 42 in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal



- 1 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
 2 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense  
 3 under IC 35-47 as part of or in furtherance of an act of terrorism.  
 4 (5) Real property owned by a person who uses it to commit any of  
 5 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5  
 6 felony:
- 7 (A) Dealing in or manufacturing cocaine or a narcotic drug (IC  
 8 35-48-4-1).
  - 9 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
  - 10 (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
  - 11 (D) Dealing in a schedule I, II, or III controlled substance (IC  
 12 35-48-4-2).
  - 13 (E) Dealing in a schedule IV controlled substance (IC  
 14 35-48-4-3).
  - 15 (F) Dealing in marijuana, hash oil, hashish, or salvia (IC  
 16 35-48-4-10).
  - 17 (G) Dealing in a synthetic drug (as defined in  
 18 IC 35-31.5-2-321) or synthetic drug lookalike substance (as  
 19 defined in IC 35-31.5-2-321.5 (before its repeal on July 1,  
 20 2019)) under IC 35-48-4-10.5 (before its repeal on July 1,  
 21 2019).
  - 22 (H) Dealing in a controlled substance resulting in death (IC  
 23 35-42-1-1.5).
- 24 (6) Equipment and recordings used by a person to commit fraud  
 25 under IC 35-43-5.
- 26 (7) Recordings sold, rented, transported, or possessed by a person  
 27 in violation of IC 24-4-10.
- 28 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as  
 29 defined by IC 35-45-6-1) that is the object of a corrupt business  
 30 influence violation (IC 35-45-6-2).
- 31 (9) Unlawful telecommunications devices (as defined in  
 32 IC 35-45-13-6) and plans, instructions, or publications used to  
 33 commit an offense under IC 35-45-13.
- 34 (10) Any equipment, including computer equipment and cellular  
 35 telephones, used for or intended for use in preparing,  
 36 photographing, recording, videotaping, digitizing, printing,  
 37 copying, or disseminating matter in violation of IC 35-42-4.
- 38 (11) Destructive devices used, possessed, transported, or sold in  
 39 violation of IC 35-47.5.
- 40 (12) Tobacco products that are sold in violation of IC 24-3-5,  
 41 tobacco products that a person attempts to sell in violation of  
 42 IC 24-3-5, and other personal property owned and used by a



- 1 person to facilitate a violation of IC 24-3-5.  
 2 (13) Property used by a person to commit counterfeiting or  
 3 forgery in violation of IC 35-43-5-2.  
 4 (14) After December 31, 2005, if a person is convicted of an  
 5 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the  
 6 following real or personal property:  
 7 (A) Property used or intended to be used to commit, facilitate,  
 8 or promote the commission of the offense.  
 9 (B) Property constituting, derived from, or traceable to the  
 10 gross proceeds that the person obtained directly or indirectly  
 11 as a result of the offense.  
 12 (15) Except as provided in subsection (e), a vehicle used by a  
 13 person who operates the vehicle:  
 14 (A) while intoxicated, in violation of IC 9-30-5-1 through  
 15 IC 9-30-5-5, if in the previous five (5) years the person has two  
 16 (2) or more prior unrelated convictions for operating a motor  
 17 vehicle while intoxicated in violation of IC 9-30-5-1 through  
 18 IC 9-30-5-5; or  
 19 (B) on a highway while the person's driving privileges are  
 20 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,  
 21 if in the previous five (5) years the person has two (2) or more  
 22 prior unrelated convictions for operating a vehicle while  
 23 intoxicated in violation of IC 9-30-5-1 through IC 9-30-5-5.  
 24 If a court orders the seizure of a vehicle under this subdivision,  
 25 the court shall transmit an order to the bureau of motor vehicles  
 26 recommending that the bureau not permit a vehicle to be  
 27 registered in the name of the person whose vehicle was seized  
 28 until the person possesses a current driving license (as defined in  
 29 IC 9-13-2-41).  
 30 (16) The following real or personal property:  
 31 (A) Property used or intended to be used to commit, facilitate,  
 32 or promote the commission of an offense specified in  
 33 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or  
 34 IC 30-2-13-38(f).  
 35 (B) Property constituting, derived from, or traceable to the  
 36 gross proceeds that a person obtains directly or indirectly as a  
 37 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),  
 38 IC 30-2-10-9(b), or IC 30-2-13-38(f).  
 39 (17) Real or personal property, including a vehicle, that is used by  
 40 a person to:  
 41 (A) commit, attempt to commit, or conspire to commit;  
 42 (B) facilitate the commission of; or



- 1 (C) escape from the commission of;  
 2 a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human  
 3 trafficking) or IC 35-45-4-4 (promoting prostitution).  
 4 (b) A vehicle used by any person as a common or contract carrier in  
 5 the transaction of business as a common or contract carrier is not  
 6 subject to seizure under this section, unless it can be proven by a  
 7 preponderance of the evidence that the owner of the vehicle knowingly  
 8 permitted the vehicle to be used to engage in conduct that subjects it to  
 9 seizure under subsection (a).  
 10 (c) Equipment under subsection (a)(10) may not be seized unless it  
 11 can be proven by a preponderance of the evidence that the owner of the  
 12 equipment knowingly permitted the equipment to be used to engage in  
 13 conduct that subjects it to seizure under subsection (a)(10).  
 14 (d) Money, negotiable instruments, securities, weapons,  
 15 communications devices, or any property commonly used as  
 16 consideration for a violation of IC 35-48-4 found near or on a person  
 17 who is committing, attempting to commit, or conspiring to commit any  
 18 of the following offenses shall be admitted into evidence in an action  
 19 under this chapter as prima facie evidence that the money, negotiable  
 20 instrument, security, or other thing of value is property that has been  
 21 used or was to have been used to facilitate the violation of a criminal  
 22 statute or is the proceeds of the violation of a criminal statute:  
 23 (1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in  
 24 death).  
 25 (2) IC 35-48-4-1 (dealing in or manufacturing cocaine or a  
 26 narcotic drug).  
 27 (3) IC 35-48-4-1.1 (dealing in methamphetamine).  
 28 (4) IC 35-48-4-1.2 (manufacturing methamphetamine).  
 29 (5) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled  
 30 substance).  
 31 (6) IC 35-48-4-3 (dealing in a schedule IV controlled substance).  
 32 (7) IC 35-48-4-4 (dealing in a schedule V controlled substance)  
 33 as a Level 4 felony.  
 34 (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a  
 35 Level 3, Level 4, or Level 5 felony.  
 36 (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level  
 37 3, Level 4, or Level 5 felony.  
 38 (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or  
 39 salvia) as a Level 5 felony.  
 40 (11) IC 35-48-4-10.5 (before its repeal on July 1, 2019) (dealing  
 41 in a synthetic drug or synthetic drug lookalike substance) as a  
 42 Level 5 felony or Level 6 felony (or as a Class C felony or Class



1 D felony under IC 35-48-4-10 before its amendment in 2013).

2 (e) A vehicle operated by a person who is not:

3 (1) an owner of the vehicle; or

4 (2) the spouse of the person who owns the vehicle;

5 is not subject to seizure under subsection (a)(15) unless it can be  
6 proven by a preponderance of the evidence that the owner of the  
7 vehicle knowingly permitted the vehicle to be used to engage in  
8 conduct that subjects it to seizure under subsection (a)(15).

9 SECTION 4. IC 34-24-3-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) For purposes of  
11 determining the amount of damages recoverable under section 1(1) of  
12 this chapter, there is an irrebuttable presumption that a retailer who  
13 brings a civil action under this chapter (or IC 34-4-30 before its repeal)  
14 as the result of a violation of IC 35-43-4-2 (theft), **IC 35-43-4-2.2**  
15 **(organized retail theft)**, or IC 35-43-4-3 (conversion) suffers a  
16 pecuniary loss in the amount of:

17 (1) one hundred dollars (\$100) regardless of whether:

18 (A) the property is returned to the retailer; or

19 (B) the actual retail value of the property is less than one  
20 hundred dollars (\$100); or

21 (2) the retailer's actual damages;

22 whichever is greater.

23 (b) An individual found liable in a civil action under this chapter (or  
24 IC 34-4-30 before its repeal) for violating IC 35-43-4-2,  
25 **IC 35-43-4-2.2**, or IC 35-43-4-3 may not be indemnified or insured for  
26 any penalties, damages, or settlement arising from the violation.

27 SECTION 5. IC 35-31.5-2-190, AS ADDED BY P.L.114-2012,  
28 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2023]: Sec. 190. "Machine gun" means **the following**:

30 (1) A weapon that:

31 (1) (A) shoots; or

32 (2) (B) can be readily restored to shoot;

33 automatically more than one (1) shot, without manual reloading,  
34 by a single function of the trigger.

35 (2) A:

36 (A) **part that is designed and intended solely and**  
37 **exclusively; or**

38 (B) **combination of parts that are designed and intended;**  
39 **for use in converting a weapon into a weapon that fires**  
40 **automatically more than one (1) shot, without manual**  
41 **reloading, by a single function of the trigger.**

42 SECTION 6. IC 35-31.5-2-278.7 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2023]: **Sec. 278.7. "Retail merchant", for**  
 3 **purposes of IC 35-43-4-2.2, has the meaning set forth in**  
 4 **IC 35-43-4-2.2(a).**

5 SECTION 7. IC 35-38-9-1, AS AMENDED BY P.L.14-2022,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2023]: Sec. 1. (a) This section applies only to a person who  
 8 has been arrested, charged with an offense, or alleged to be a  
 9 delinquent child, if:

10 (1) the arrest, criminal charge, or juvenile delinquency allegation:

11 (A) did not result in a conviction or juvenile adjudication, even  
 12 if the arrest, criminal charge, or juvenile delinquency  
 13 allegation resulted in an adjudication for an infraction; or

14 (B) resulted in a conviction or juvenile adjudication and the  
 15 conviction or adjudication was expunged under sections 2  
 16 through 5 of this chapter, or was later vacated; and

17 (2) the person is not currently participating in a pretrial diversion  
 18 program, unless the prosecuting attorney authorizes the person to  
 19 petition for an expungement under this section.

20 (b) This subsection applies to a person charged with an offense or  
 21 alleged to be a delinquent child after June 30, 2022. If:

22 (1) a court dismisses all:

23 (A) criminal charges; or

24 (B) juvenile delinquency allegations;

25 filed and pending against a person;

26 (2) one (1) year has passed since juvenile delinquency allegations  
 27 were filed against a child, and:

28 (A) there is no disposition; and

29 (B) the state is not actively prosecuting the allegations; or

30 (3) in a:

31 (A) criminal trial a defendant is acquitted of all charges, or the  
 32 defendant's conviction is later vacated; or

33 (B) juvenile proceeding the court finds all allegations not true,  
 34 or the juvenile's true finding is later vacated;

35 the court shall immediately order all records related to the criminal  
 36 charges or juvenile delinquency allegations expunged. An  
 37 expungement order that is issued based on nonprosecution under  
 38 subdivision (2) goes into effect immediately. An expungement order  
 39 issued under subdivision (1) or (3) may not go into effect earlier than  
 40 sixty (60) days from the date of the dismissal, acquittal, or no true  
 41 finding. However, upon motion by the prosecuting attorney, if the court  
 42 finds that specific facts exist in the particular case which justify a



1 delay, the court may delay implementation of an expungement order  
 2 under subdivision (1) or (3) for up to one (1) year from the date of the  
 3 dismissal, acquittal, or no true finding.

4 (c) This subsection applies to a person arrested after June 30, 2022.  
 5 If:

6 (1) a person is arrested;

7 (2) ~~one hundred eighty (180) days~~ **have one (1) year has** elapsed  
 8 since the date of the arrest; and

9 (3) no charges are pending against the person;

10 ~~the prosecuting attorney shall notify the person~~ **may petition** a judge  
 11 exercising criminal jurisdiction in the county (or a designated judge, if  
 12 applicable) of these facts. Upon receipt of the ~~notification,~~ **petition**, the  
 13 judge shall immediately order the expungement of all records related  
 14 to the arrest.

15 (d) Not earlier than one (1) year after the date of arrest, criminal  
 16 charge, or juvenile delinquency allegation (whichever is later), if the  
 17 person was not convicted or adjudicated a delinquent child, or the  
 18 opinion vacating the conviction or adjudication becomes final, the  
 19 person may petition the court for expungement of the records related  
 20 to the arrest, criminal charge, or juvenile delinquency allegation.  
 21 However, a person may petition the court for expungement at an earlier  
 22 time if the prosecuting attorney agrees in writing to an earlier time.

23 (e) A petition for expungement of records must be verified and filed  
 24 in a circuit or superior court in the county where the criminal charges  
 25 or juvenile delinquency allegation was filed, or if no criminal charges  
 26 or juvenile delinquency allegation was filed, in the county where the  
 27 arrest occurred. The petition must set forth:

28 (1) the date of the arrest, criminal charges, or juvenile  
 29 delinquency allegation, and conviction (if applicable);

30 (2) the county in which the arrest occurred, the county in which  
 31 the information or indictment was filed, and the county in which  
 32 the juvenile delinquency allegation was filed, if applicable;

33 (3) the law enforcement agency employing the arresting officer,  
 34 if known;

35 (4) the court in which the criminal charges or juvenile  
 36 delinquency allegation was filed, if applicable;

37 (5) any other known identifying information, such as:

38 (A) the name of the arresting officer;

39 (B) case number or court cause number;

40 (C) any aliases or other names used by the petitioner;

41 (D) the petitioner's driver's license number; and

42 (E) a list of each criminal charge and its disposition, if





- 1 applicable;
- 2 (6) the date of the petitioner's birth; and
- 3 (7) the petitioner's Social Security number.
- 4 A person who files a petition under this section is not required to pay
- 5 a filing fee.
- 6 (f) The court shall serve a copy of the petition on the prosecuting
- 7 attorney.
- 8 (g) Upon receipt of a petition for expungement, the court:
- 9 (1) may summarily deny the petition if the petition does not meet
- 10 the requirements of this section, or if the statements contained in
- 11 the petition indicate that the petitioner is not entitled to relief; and
- 12 (2) shall grant the petition unless:
- 13 (A) the conditions described in subsection (a) have not been
- 14 met; or
- 15 (B) criminal charges are pending against the person.
- 16 (h) Whenever the petition of a person under this section is granted,
- 17 or if an expungement order is issued without a petition under
- 18 subsection (b): ~~or (e):~~
- 19 (1) no information concerning the arrest, criminal charges,
- 20 juvenile delinquency allegation, vacated conviction, or vacated
- 21 juvenile delinquency adjudication (including information from a
- 22 collateral action that identifies the petitioner), may be placed or
- 23 retained in any state central repository for criminal history
- 24 information or in any other alphabetically arranged criminal
- 25 history information system maintained by a local, regional, or
- 26 statewide law enforcement agency;
- 27 (2) the clerk of the supreme court shall seal or redact any records
- 28 in the clerk's possession that relate to the arrest, criminal charges,
- 29 juvenile delinquency allegation, vacated conviction, or vacated
- 30 juvenile delinquency adjudication;
- 31 (3) the records of:
- 32 (A) the sentencing court;
- 33 (B) a court that conducted a collateral action;
- 34 (C) a juvenile court;
- 35 (D) a court of appeals; and
- 36 (E) the supreme court;
- 37 concerning the person shall be redacted or permanently sealed;
- 38 and
- 39 (4) with respect to the records of a person who is named as an
- 40 appellant or an appellee in an opinion or memorandum decision
- 41 by the supreme court or the court of appeals, or who is identified
- 42 in a collateral action, the court shall:



1 (A) redact the opinion or memorandum decision as it appears  
 2 on the computer gateway administered by the office of  
 3 technology so that it does not include the petitioner's name (in  
 4 the same manner that opinions involving juveniles are  
 5 redacted); and

6 (B) provide a redacted copy of the opinion to any publisher or  
 7 organization to whom the opinion or memorandum decision is  
 8 provided after the date of the order of expungement.

9 The supreme court and the court of appeals are not required to  
 10 redact, destroy, or otherwise dispose of any existing copy of an  
 11 opinion or memorandum decision that includes the petitioner's  
 12 name.

13 (i) If the court issues an order granting a petition for expungement  
 14 under this section, or issues an order for expungement without a  
 15 petition under subsection (b), ~~or (c)~~; the order must include the  
 16 information described in subsection (e).

17 (j) If a person whose records are expunged brings an action that  
 18 might be defended with the contents of the expunged records, the  
 19 defendant is presumed to have a complete defense to the action. In  
 20 order for the plaintiff to recover, the plaintiff must show that the  
 21 contents of the expunged records would not exonerate the defendant.  
 22 The plaintiff may be required to state under oath whether the plaintiff  
 23 had records in the criminal or juvenile justice system and whether those  
 24 records were expunged. If the plaintiff denies the existence of the  
 25 records, the defendant may prove their existence in any manner  
 26 compatible with the law of evidence.

27 SECTION 8. IC 35-38-9-6, AS AMENDED BY P.L.14-2022,  
 28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2023]: Sec. 6. (a) If the court orders conviction records,  
 30 including any records relating to the conviction and any records  
 31 concerning a collateral action, expunged under sections 2 through 3 of  
 32 this chapter, the court shall do the following with respect to the specific  
 33 records expunged by the court:

34 (1) Order:

- 35 (A) the department of correction;
- 36 (B) the bureau of motor vehicles; and
- 37 (C) each:

- 38 (i) law enforcement agency; and
- 39 (ii) other person;

40 who incarcerated, prosecuted, provided treatment for, or  
 41 provided other services for the person under an order of the  
 42 court;



1 to prohibit the release of the person's records or information in the  
 2 person's records to anyone without a court order, other than a law  
 3 enforcement officer acting in the course of the officer's official  
 4 duty.

5 (2) Order the central repository for criminal history information  
 6 maintained by the state police department to seal the person's  
 7 expunged conviction records, including information related to:

8 (A) an arrest or offense:

9 (i) in which no conviction was entered; and

10 (ii) that was committed as part of the same episode of  
 11 criminal conduct as the case ordered expunged; and

12 (B) any other references to any matters related to the case  
 13 ordered expunged, including in a collateral action.

14 This subdivision does not require the state police department to  
 15 seal any record the state police department does not have legal  
 16 authority to seal.

17 (3) Records sealed under subdivision (2) may be disclosed only  
 18 to:

19 (A) a prosecuting attorney, if:

20 (i) authorized by a court order; and

21 (ii) needed to carry out the official duties of the prosecuting  
 22 attorney;

23 (B) a defense attorney, if:

24 (i) authorized by a court order; and

25 (ii) needed to carry out the professional duties of the defense  
 26 attorney;

27 (C) a probation department, if:

28 (i) authorized by a court order; and

29 (ii) necessary to prepare a presentence report;

30 (D) the Federal Bureau of Investigation and the Department of  
 31 Homeland Security, if disclosure is required to comply with an  
 32 agreement relating to the sharing of criminal history  
 33 information;

34 (E) the:

35 (i) supreme court;

36 (ii) members of the state board of law examiners;

37 (iii) executive director of the state board of law examiners;  
 38 and

39 (iv) employees of the state board of law examiners, in  
 40 accordance with rules adopted by the state board of law  
 41 examiners;

42 for the purpose of determining whether an applicant possesses



1 the necessary good moral character for admission to the bar;  
 2 (F) a person required to access expunged records to comply  
 3 with the Secure and Fair Enforcement for Mortgage Licensing  
 4 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the  
 5 Secure and Fair Enforcement for Mortgage Licensing Act; ~~and~~  
 6 (G) the bureau of motor vehicles, the Federal Motor Carrier  
 7 Administration, and the Commercial Drivers License  
 8 Information System (CDLIS), if disclosure is required to  
 9 comply with federal law relating to reporting a conviction for  
 10 a violation of a traffic control law; **and**  
 11 **(H) a school (as defined in IC 22-4-2-37), for the purpose of**  
 12 **determining whether to:**  
 13 **(i) employ a person seeking employment, including**  
 14 **volunteer employment, with the school; or**  
 15 **(ii) grant access or admission to the school to a**  
 16 **contractor;**  
 17 **if the applicant or contractor is likely to have contact with**  
 18 **a student enrolled in the school, regardless of the age of the**  
 19 **student.**  
 20 (4) Notify the clerk of the supreme court to seal any records in the  
 21 clerk's possession that relate to the conviction, including any  
 22 records concerning a collateral action.  
 23 A probation department may provide an unredacted version of a  
 24 presentence report disclosed under subdivision (3)(C) to any person  
 25 authorized by law to receive a presentence report.  
 26 (b) Except as provided in subsection (c), if a petition to expunge  
 27 conviction records, including any records relating to the conviction and  
 28 any records concerning a collateral action, is granted under sections 2  
 29 through 3 of this chapter, the records of:  
 30 (1) the sentencing court;  
 31 (2) a court that conducted a collateral action;  
 32 (3) a juvenile court;  
 33 (4) a court of appeals; and  
 34 (5) the supreme court;  
 35 concerning the person shall be permanently sealed. However, a petition  
 36 for expungement granted under sections 2 through 3 of this chapter  
 37 does not affect an existing or pending driver's license suspension.  
 38 (c) If a petition to expunge conviction records, including any records  
 39 relating to the conviction and any records concerning a collateral  
 40 action, is granted under sections 2 through 3 of this chapter with  
 41 respect to the records of a person who is named as an appellant or an  
 42 appellee in an opinion or memorandum decision by the supreme court



1 or the court of appeals, or who is identified in a collateral action, the  
2 court shall:

3 (1) redact the opinion or memorandum decision as it appears on  
4 the computer gateway administered by the office of technology so  
5 that it does not include the petitioner's name (in the same manner  
6 that opinions involving juveniles are redacted); and

7 (2) provide a redacted copy of the opinion to any publisher or  
8 organization to whom the opinion or memorandum decision is  
9 provided after the date of the order of expungement.

10 The supreme court and court of appeals are not required to destroy or  
11 otherwise dispose of any existing copy of an opinion or memorandum  
12 decision that includes the petitioner's name.

13 (d) Notwithstanding subsection (b), a prosecuting attorney may  
14 submit a written application to a court that granted an expungement  
15 petition under this chapter to gain access to any records that were  
16 permanently sealed under subsection (b), if the records are relevant in  
17 a new prosecution of the person. If a prosecuting attorney who submits  
18 a written application under this subsection shows that the records are  
19 relevant for a new prosecution of the person, the court that granted the  
20 expungement petition shall:

21 (1) order the records to be unsealed; and

22 (2) allow the prosecuting attorney who submitted the written  
23 application to have access to the records.

24 If a court orders records to be unsealed under this subsection, the court  
25 shall order the records to be permanently resealed at the earliest  
26 possible time after the reasons for unsealing the records cease to exist.  
27 However, if the records are admitted as evidence against the person in  
28 a new prosecution that results in the person's conviction, or are used to  
29 enhance a sentence imposed on the person in a new prosecution, the  
30 court is not required to reseat the records.

31 (e) If a person whose conviction records, including any records  
32 relating to the conviction and any records concerning a collateral  
33 action, are expunged under sections 2 through 5 of this chapter is  
34 required to register as a sex offender based on the commission of a  
35 felony which has been expunged:

36 (1) the expungement does not affect the operation of the sex  
37 offender registry web site, any person's ability to access the  
38 person's records, records required to be maintained concerning  
39 sex or violent offenders, or any registration requirement imposed  
40 on the person; and

41 (2) the expunged conviction records must be clearly marked as  
42 expunged on the sex offender registry web site.



1 (f) Expungement of a crime of domestic violence under section 2 of  
 2 this chapter does not restore a person's right to possess a firearm. The  
 3 right of a person convicted of a crime of domestic violence to possess  
 4 a firearm may be restored only in accordance with IC 35-47-4-7.

5 (g) If a court issues an order granting a petition for expungement  
 6 under sections 2 through 3 of this chapter, the court shall also order any  
 7 related records described in section 1(h) of this chapter sealed or  
 8 redacted in the manner described in section 1 of this chapter, unless the  
 9 records described in section 1(h) of this chapter have been ordered  
 10 sealed and redacted under this section.

11 (h) If the court issues an order granting a petition for expungement  
 12 under sections 2 through 3 of this chapter, the court shall include in its  
 13 order the information described in section 8(b) of this chapter.

14 SECTION 9. IC 35-43-4-2.2 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2023]: **Sec. 2.2. (a) As used in this section, "retail merchant" has  
 17 the meaning set forth in IC 6-2.5-1-8.**

18 (b) **Except as provided in subsection (c), a person who  
 19 knowingly takes, procures, receives, conceals, or otherwise exerts  
 20 control over merchandise of a retail merchant or uses an artifice,  
 21 an instrument, a container, a device, or another article to facilitate  
 22 taking, procuring, receiving, concealing, or exercising control over  
 23 merchandise of a retail merchant:**

24 (1) **without the consent of the retail merchant or without  
 25 paying the appropriate consideration for the merchandise;  
 26 and**

27 (2) **with the intent to sell, deliver, benefit from, or distribute  
 28 the merchandise to another person;**

29 **commits organized retail theft, a Level 6 felony.**

30 (c) **The offense committed under subsection (b) is:**

31 (1) **a Level 5 felony if:**

32 (A) **the value of the property is at least seven hundred fifty  
 33 dollars (\$750) and less than two thousand five hundred  
 34 dollars (\$2,500);**

35 (B) **the property is a firearm; or**

36 (C) **the person has a prior unrelated conviction for:**

37 (i) **organized retail theft under this section;**

38 (ii) **theft under section 2 of this chapter; or**

39 (iii) **criminal conversion under section 3 of this chapter;**

40 **and**

41 (2) **a Level 4 felony if the value of the property is at least two  
 42 thousand five hundred dollars (\$2,500).**



1 (d) In determining the value of the property under this section,  
 2 acts of organized retail theft committed in a single episode of  
 3 criminal conduct (as defined in IC 35-50-1-2(b)) may be charged in  
 4 a single count.

5 (e) For purposes of this section, "the value of the property"  
 6 means:

7 (1) the fair market value of the property at the time and place  
 8 the offense was committed; or

9 (2) if the fair market value of the property cannot be  
 10 satisfactorily determined, the cost to replace the property  
 11 within a reasonable time after the offense was committed.

12 A price tag or price marking on property displayed or offered for  
 13 sale constitutes prima facie evidence of the value of the property.

14 SECTION 10. IC 35-44.1-3-4, AS AMENDED BY P.L.84-2022,  
 15 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2023]: Sec. 4. (a) This section does not apply to a child who:

17 (1) flees from lawful detention (as defined in IC 35-31.5-2-186)  
 18 where the child has been placed;

19 (2) violates a home detention order imposed on the child;

20 (3) removes, disables, or interferes with the operation of an  
 21 electronic monitoring device or GPS tracking device that the child  
 22 is required to wear; or

23 (4) fails to return to lawful detention following temporary leave  
 24 granted for a specified purpose or limited period;

25 due to an allegation or adjudication that the child committed an act  
 26 described in IC 31-37-2-3 through IC 31-37-2-7 (status offenses),  
 27 unless the child, while committing the offense, draws or uses a deadly  
 28 weapon or inflicts bodily injury on another person.

29 (b) A person, except as provided in subsection (c), who intentionally  
 30 flees from lawful detention commits escape, a Level 5 felony.  
 31 However, the offense is a Level 4 felony if, while committing it, the  
 32 person draws or uses a deadly weapon or inflicts bodily injury on  
 33 another person.

34 (c) A person who:

35 (1) knowingly or intentionally violates a home detention order **or,**  
 36 **for a person on community corrections, a home detention**  
 37 **placement term,** except for a provision of a home detention order  
 38 **or placement term** relating to:

39 (A) the possession or consumption of alcohol or a controlled  
 40 substance in the person's home;

41 (B) tardiness to or missed appointments with supervising staff;  
 42 or



- 1 (C) the failure to pay user fees; or  
 2 (2) intentionally removes, disables, or interferes with the  
 3 operation of an electronic monitoring device or GPS tracking  
 4 device;  
 5 commits escape, a Level 6 felony.
- 6 (d) A person who knowingly or intentionally fails to return to lawful  
 7 detention following temporary leave granted for a specified purpose or  
 8 limited period commits failure to return to lawful detention, a Level 6  
 9 felony. However, the offense is a Level 5 felony if, while committing  
 10 it, the person draws or uses a deadly weapon or inflicts bodily injury on  
 11 another person.
- 12 SECTION 11. IC 35-45-6-1, AS AMENDED BY P.L.25-2022,  
 13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2023]: Sec. 1. (a) The definitions in this section apply  
 15 throughout this chapter.
- 16 (b) "Documentary material" means any document, drawing,  
 17 photograph, recording, or other tangible item containing compiled data  
 18 from which information can be either obtained or translated into a  
 19 usable form.
- 20 (c) "Enterprise" means:  
 21 (1) a sole proprietorship, corporation, limited liability company,  
 22 partnership, business trust, or governmental entity; or  
 23 (2) a union, an association, or a group, whether a legal entity or  
 24 merely associated in fact.
- 25 (d) "Pattern of racketeering activity" means engaging in at least two  
 26 (2) incidents of racketeering activity that have the same or similar  
 27 intent, result, accomplice, victim, or method of commission, or that are  
 28 otherwise interrelated by distinguishing characteristics that are not  
 29 isolated incidents. However, the incidents are a pattern of racketeering  
 30 activity only if at least one (1) of the incidents occurred after August  
 31 31, 1980, and if the last of the incidents occurred within five (5) years  
 32 after a prior incident of racketeering activity.
- 33 (e) "Racketeering activity" means to commit, to attempt to commit,  
 34 to conspire to commit a violation of, or aiding and abetting in a  
 35 violation of any of the following:  
 36 (1) A provision of IC 23-19, or of a rule or order issued under  
 37 IC 23-19.  
 38 (2) A violation of IC 35-45-9.  
 39 (3) A violation of IC 35-47.  
 40 (4) A violation of IC 35-49-3.  
 41 (5) Murder (IC 35-42-1-1).  
 42 (6) Battery as a Class C felony before July 1, 2014, or a Level 5





- 1 felony after June 30, 2014 (IC 35-42-2-1).
- 2 (7) Kidnapping (IC 35-42-3-2).
- 3 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 4 (9) Child exploitation (IC 35-42-4-4).
- 5 (10) Robbery (IC 35-42-5-1).
- 6 (11) Carjacking (IC 35-42-5-2) (before its repeal).
- 7 (12) Arson (IC 35-43-1-1).
- 8 (13) Burglary (IC 35-43-2-1).
- 9 (14) Theft (IC 35-43-4-2).
- 10 (15) Receiving stolen property (IC 35-43-4-2) (before its
- 11 amendment on July 1, 2018).
- 12 (16) Forgery (IC 35-43-5-2).
- 13 (17) An offense under IC 35-43-5.
- 14 (18) Bribery (IC 35-44.1-1-2).
- 15 (19) Official misconduct (IC 35-44.1-1-1).
- 16 (20) Conflict of interest (IC 35-44.1-1-4).
- 17 (21) Perjury (IC 35-44.1-2-1).
- 18 (22) Obstruction of justice (IC 35-44.1-2-2).
- 19 (23) Intimidation (IC 35-45-2-1).
- 20 (24) Promoting prostitution (IC 35-45-4-4).
- 21 (25) Professional gambling (IC 35-45-5-3).
- 22 (26) Maintaining a professional gambling site (IC
- 23 35-45-5-3.5(b)).
- 24 (27) Promoting professional gambling (IC 35-45-5-4).
- 25 (28) Dealing in or manufacturing cocaine or a narcotic drug (IC
- 26 35-48-4-1).
- 27 (29) Dealing in methamphetamine (IC 35-48-4-1.1).
- 28 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 29 (31) Dealing in a schedule I, II, or III controlled substance (IC
- 30 35-48-4-2).
- 31 (32) Dealing in a schedule IV controlled substance (IC
- 32 35-48-4-3).
- 33 (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 34 (34) Dealing in marijuana, hash oil, hashish, or salvia (IC
- 35 35-48-4-10).
- 36 (35) Money laundering (IC 35-45-15-5).
- 37 (36) A violation of IC 35-47.5-5.
- 38 (37) A violation of any of the following:
- 39 (A) IC 23-14-48-9.
- 40 (B) IC 30-2-9-7(b).
- 41 (C) IC 30-2-10-9(b).
- 42 (D) IC 30-2-13-38(f).



1 (38) Practice of law by a person who is not an attorney (IC  
2 33-43-2-1).

3 (39) An offense listed in IC 35-48-4 involving the manufacture or  
4 sale of a synthetic drug (as defined in IC 35-31.5-2-321), a  
5 synthetic drug lookalike substance (as defined in  
6 IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under  
7 IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled  
8 substance analog (as defined in IC 35-48-1-9.3), or a substance  
9 represented to be a controlled substance (as described in  
10 IC 35-48-4-4.6).

11 (40) Dealing in a controlled substance resulting in death (IC  
12 35-42-1-1.5).

13 **(41) Organized retail theft (IC 35-43-4-2.2).**

14 SECTION 12. IC 35-47-2-7, AS AMENDED BY P.L.183-2019,  
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2023]: Sec. 7. (a) As used in this section, "machine gun" **has**  
17 **the meaning set forth in IC 35-31.5-2-190. For purposes of this**  
18 **section, the term also includes:**

19 (1) ~~means any a~~ **means any a** weapon that ~~shoots;~~ is designed to shoot ~~or can~~  
20 ~~be readily restored to shoot~~ automatically more than one (1) shot,  
21 without manual reloading, by a single function of the trigger; ~~The~~  
22 ~~term includes~~

23 (2) ~~the frame or receiver of any such a~~ **the frame or receiver of any such a** weapon ~~any part designed~~  
24 ~~and intended solely and exclusively;~~ **and intended solely and exclusively;** ~~or a combination of parts~~  
25 ~~designed and intended;~~ **designed and intended;** ~~for use in converting a weapon into a~~  
26 ~~machine gun;~~ **and described in subdivision (1) or**  
27 **IC 35-31.5-2-190(1); and**

28 (3) any combination of parts from which a machine gun can be  
29 assembled if such parts are in the possession or under the control  
30 of a person.

31 (b) Except an individual acting within a parent-minor child or  
32 guardian-minor protected person relationship or any other individual  
33 who is also acting in compliance with IC 35-47-10 (governing children  
34 and firearms) and federal law, a person may not sell, give, or in any  
35 other manner transfer the ownership or possession of a handgun or  
36 machine gun to any person under eighteen (18) years of age.

37 (c) A person who knowingly or intentionally sells, gives, or in any  
38 other manner transfers ownership or possession of a machine gun to a  
39 person under eighteen (18) years of age commits a Level 5 felony.  
40 However, the offense is a Level 4 felony if the person who sells, gives,  
41 or transfers ownership of the machine gun has a prior conviction under  
42 this section, and a Level 3 felony if a person under eighteen (18) years



1 of age uses the machine gun to commit murder (IC 35-42-1-1).

2 (d) A person who knowingly or intentionally sells, gives, or in any  
3 other manner transfers the ownership or possession of a handgun to  
4 another person who the person knows:

5 (1) is ineligible for any reason other than the person's age to  
6 purchase or otherwise receive from a dealer a handgun; or

7 (2) intends to use the handgun to commit a crime;

8 commits criminal transfer of a handgun, a Level 5 felony. However, the  
9 offense is a Level 3 felony if the other person uses the handgun to  
10 commit murder (IC 35-42-1-1).

11 (e) A person who purchases a handgun with the intent to:

12 (1) resell or otherwise provide the handgun to another person who  
13 the person knows is ineligible for any reason to purchase or  
14 otherwise receive from a dealer a handgun;

15 (2) resell or otherwise provide the handgun to another person who  
16 the person knows intends to use the handgun to commit a crime;

17 or

18 (3) transport the handgun outside Indiana to be resold or  
19 otherwise provided to another person who the transferor knows:

20 (A) is ineligible to purchase or otherwise receive a handgun;

21 or

22 (B) intends to use the handgun to commit a crime;

23 commits the straw purchase of a handgun, a Level 5 felony. However,  
24 the offense is a Level 3 felony if the other person uses the handgun to  
25 commit murder (IC 35-42-1-1).

26 (f) As used in this subsection, "NICS" has the meaning set forth in  
27 IC 35-47-2.5-2.5. It is a defense to a prosecution under subsection  
28 (d)(1) that:

29 (1) the accused person contacted NICS (or had a dealer contact  
30 NICS on the person's behalf) to request a background check on  
31 the other person before the accused person sold, gave, or in any  
32 other manner transferred the ownership or possession of the  
33 handgun to the other person; and

34 (2) the accused person (or dealer acting on the person's behalf)  
35 received authorization from NICS to sell, give, or in any other  
36 manner transfer ownership or possession of the handgun to the  
37 other person.

